

25.08.2021

Court No.28
Item No.11
(Rejected)

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CRM 3028 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Sessions Case No. 162 of 2018 arising out of Kanksa Police Station Case No. 184 of 2018 dated 14.06.2018 under Sections 302/120B/34 of the Indian Penal Code;

And

In the matter of : **Sk. Ezazul.**

...Petitioner

**Mr. Debjit Mukherjee,
Ms. Sushmita Chatterjee,
Ms. Sadhana Bhattacharjee.**

...For the Petitioner

**Mr. N. Ahmed,
Mr. Anwar Hossain,
Ms. Trina Mitra.**

...For the State.

The Advocate on Record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Sessions Case No. 162 of 2018 arising out of Kanksa Police Station Case No. 184 of 2018 under Sections 302/120B/34 of the Indian Penal Code.

By this application the petitioner has renewed his prayer for bail. The earlier application for bail being CRM 3478 of 2020 was rejected on 15th May, 2020 by this Bench on categorical finding that the petitioner is one of the prime accused and the trial has also commenced and, in fact, two charge sheeted witnesses have already been examined in the case.

Our attention is drawn by the learned Advocate for the petitioner that the Investigating Officer did not ask for custodial trial of the present petitioner and, therefore, the petitioner is entitled to be released on bail on such score alone. It is further submitted that some of the co-accused have been enlarged on bail and the petitioner standing on the same footing should also be treated equally.

The petitioner is in custody for nearly 822 days with a profound hope of the completion of trial, but the same appears to be unreal because of the pace in which the trial is progressing.

Mr. N. Ahmed, learned Counsel for the State, informs us that in the meantime another witness has been examined and, in fact, three witnesses have been examined by the Sessions Judge, but the progress is impeded because of the adjournment being sought by the other co-accused.

We had an occasion to peruse the statement of the witnesses. Having gone through the same and considering the fact that the earlier application was dismissed on 15th May, 2020, we do not find any changed circumstances except the tenure of custody having elongated.

In view of above, the prayer for bail of the petitioner is rejected.

However, once the ball of trial has rolled, we expect that the Court should show alacrity in bringing the same to its logical conclusion at the earliest.

We, therefore, request the learned Additional Sessions Judge before whom the matter is pending to expedite the trial of the case and endeavour shall be shown to get it disposed of within ten months from the date of the communication of this order.

The application for bail, being CRM 3028 of 2021, is thus **dismissed.**

(Harish Tandon, J)

(Bibek Chaudhuri, J.)